SALES—RIGHT OF BUYER TO RELY UPON FRAUDULENT MISREPRESENTATIONS WITHOUT INVESTIGATION.—Defendant was induced to buy a large number of sewing machines through representations that a dealer in a town 18 miles away had ceased to handle that make. Three weeks later, after receiving the machines, defendant discovered that the representations were false, and sought to rescind. In a suit for the purchase price a verdict was directed for the plaintiff. *Held,* that when one party is guilty of fraud he cannot complain that the other relied on his representations. *White Sewing Machine Co.* v. *Bullock* (N. C. 1912) 76 S. E. 634.

Applying the doctrine of *caveat emptor,* courts have held that where there are no confidential relations between the parties, and the injured party had means at hand of discovering the truth he should investigate unless prevented from doing so by the fraud or artifices of the other party. This on the ground that public policy requires buyers to exercise ordinary prudence. *Bailey* v. *Merrel,* 2 Cro. Jac. 386; *Long* v. *Warren,* 68 N. Y. 426; *Slaughter* v. *Gerson,* 13 Wall (U. S.) 370; 20 L. Ed. 627; *Dalton Construction Co* v .*Block,* 157 Fed. 227; 20 Cyc. 32, 49. To the same effect are cases holding it necessary to investigate where a reasonably prudent man would have done so; and leaving the question to the jury. *Whiting* v. *Price,* 172 Mass. 420; *Holst* v. *Stewart,* 161 Mass. 516. The modern tendency, however, is towards the rule that negligence in trusting to misrepresentations does not excuse willful fraud. *Hale* v. *Philbrick,* 42 Ia. 81; *Griffin* v. *Lumber* Co., 140 N. C. 514; *Martin* v. *Hutton,* 90 Neb. 34; *Westerman* v. *Corder,* 86 Kan. 239; *Mt. Hope Nurseries Co.* v. *Jackson,* (Okla. 1912) 128 Pac. 250; WILLISTON SALES, §634. These latter cases could have gone on the ground that the means of discovering the truth were not "at hand," or that the circumstances were not so suspicious as to put a prudent man on his inquiry.

TRIAL—INCORRECT INSTRUCTION CURED BY CORRECT ONE.—In an action for damages for personal injuries, the judge gave an incorrect instruction to the effect that plaintiff was not guilty of contributory negligence in jumping from his engine if he acted as a reasonably prudent man would have acted under the circumstances "as they appeared to him." A correct instruction informed the jury that there could be no recovery unless the appearance of danger to the plaintiff were sufficient to justify a "person of reasonable firmness and prudence" in believing that it was necessary to jump. *Held,* that the defective instruction was cured by the correct one. *Chesapeake & O. Ry. Co.* v. *McCarthy* (Va. 1912) 76 S. E. 319.

The court, although expressing a doubt as to the incorrectness of the first mentioned instruction, assumed that it was wrong and based its decision squarely on the proposition that defects in one instruction may be cured by a correct statement of the law in another. The court follows the rule stated in *Adamson* v. *Norfolk & P. Traction Co.,* 111 Va. 556, 69 S. E. 1055: "Although an instruction standing alone, may have been misleading, the verdict of the jury will not on that account be set aside where it appears that the objection thereto was corrected by other instructions given by the court." The rule thus laid down is apparently contrary to the weight of authority,